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By: **Delegate Vallario**  
Introduced and read first time: March 3, 2004  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Estates - Foreclosure of Mortgage or Deed of Trust - Notice of Proposed Sale**

3 FOR the purpose of providing that a person authorized to make a sale of property in  
4 an action to foreclose a mortgage or deed of trust may provide certain notice of  
5 the sale to a personal representative of a decedent or by other methods under  
6 certain circumstances; providing that if certain notice is provided, a sale may  
7 not be determined to be invalid based on the death of the record owner of the  
8 property at a certain time; providing for the application of this Act; and  
9 generally relating to notice of a proposed sale of property in an action to  
10 foreclose a mortgage or deed of trust.

11 BY repealing and reenacting, with amendments,  
12 Article - Real Property  
13 Section 7-105(b)  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume and 2003 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Real Property**

19 7-105.

20 (b) (1) (i) In this subsection, "record owner" means the person holding  
21 record title to property as of the later of:

22 1. 30 days before the day on which a foreclosure sale of the  
23 property is actually held; and

24 2. The date on which an action to foreclose the mortgage or  
25 deed of trust is filed.

26 (ii) In addition to any notice required to be given by provisions of  
27 the Annotated Code of Maryland or the Maryland Rules, the person authorized to

1 make a sale in an action to foreclose a mortgage or deed of trust shall give written  
2 notice of the proposed sale [to the record owner] of the property to be sold:

3 1. SUBJECT TO ITEMS 2 AND 3 OF THIS SUBPARAGRAPH, TO  
4 THE RECORD OWNER OF THE PROPERTY;

5 2. TO THE PERSONAL REPRESENTATIVE OF A DECEDENT  
6 WHO IS THE RECORD OWNER OF THE PROPERTY AT THE MAILING ADDRESS LISTED  
7 FOR THE PERSONAL REPRESENTATIVE IN THE ESTATE FILING, IF THE PERSON  
8 AUTHORIZED TO MAKE THE SALE HAS KNOWLEDGE OF THE APPOINTMENT OF THE  
9 PERSONAL REPRESENTATIVE; OR

10 3. IF THE PERSON AUTHORIZED TO MAKE THE SALE HAS  
11 REASON TO BELIEVE THAT THE RECORD OWNER OF THE PROPERTY TO BE SOLD IS  
12 DECEASED AND DETERMINES THAT NO PERSONAL REPRESENTATIVE HAS BEEN  
13 APPOINTED FOR THE DECEDENT IN THE COUNTY WHERE THE PROPERTY IS  
14 LOCATED, TO "OCCUPANT":

15 A. AT THE ADDRESS OF THE PROPERTY; OR

16 B. AT ANY ALTERNATIVE ADDRESS PROVIDED IN WRITING  
17 TO THE LIENHOLDER BY THE DECEDENT BEFORE THE DECEDENT'S DEATH OR BY A  
18 PERSON CLAIMING TO REPRESENT THE INTERESTS OF THE DECEDENT AFTER THE  
19 DEATH OF THE DECEDENT.

20 (III) IF A PERSON AUTHORIZED TO MAKE A SALE TO FORECLOSE A  
21 MORTGAGE OR DEED OF TRUST COMPLIES WITH ITEM (II)2 OR ITEM (II)3 OF THIS  
22 PARAGRAPH, THE SALE MAY NOT BE DETERMINED TO BE INVALID BASED ON THE  
23 FACT THAT THE RECORD OWNER WAS DECEASED ON OR BEFORE THE DAY OF THE  
24 SALE.

25 (2) (i) The written notice shall be sent:

26 1. By certified mail, postage prepaid, return receipt  
27 requested, bearing a postmark from the United States Postal Service, to the record  
28 owner; and

29 2. By first class mail.

30 (ii) The notice shall state the time, place, and terms of the sale and  
31 shall be sent not earlier than 30 days and not later than 10 days before the date of  
32 sale.

33 (iii) The person giving the notice shall file in the proceedings:

34 1. A return receipt; or

35 2. An affidavit that:

1                                   A.       The provisions of this paragraph have been complied with;

2 or

3                                   B.       The address of the record owner is not reasonably  
4 ascertainable.

5                                   (iv)     The person authorized to make a sale in an action to foreclose a  
6 mortgage or deed of trust is not required to give notice to a record owner whose  
7 address is not reasonably ascertainable.

8                                   (3)     In the event of postponement of sale, which may be done in the  
9 discretion of the trustee, no new or additional notice need be given pursuant to this  
10 section.

11                                  (4)     The right of a record owner to file an action for the failure of the  
12 person authorized to make a sale in an action to foreclose a mortgage or deed of trust  
13 to comply with the provisions of this subsection shall expire 3 years after the date of  
14 the order ratifying the foreclosure sale.

15       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
16 construed to apply only prospectively and may not be applied or interpreted to have  
17 any effect on or application to any sale of property that occurs before the effective date  
18 of this Act.

19       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2004.